GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Bittari Sujatha, Bittari Swarupa and Bittari Santhi Babu, Kindra, Anantagiri (V), Rajavommangi (M), East Godavari District, under Section 7(2) of the Act 16 of 1993 against the Proceedings No. Ref.C5/42/2019, dated 06.11.2019 of the Collector & District Magistrate, East Godavari District, Kakinada in not considering their caste as ST-Valmiki – Appeal Petition allowed – Orders - Issued.

SOCIAL WELFARE (TW.CV.2) DEPARTMENT

G.O.Ms.No.40.

Dated: 20.12.2021
Read the following:-

1. Proceedings of the Collector & District Magistrate, East Godavari District, Kakinada in Ref.C5/42/2019, Dt. 06.11.2019.
2. Appeal Petition filed by Bittari Sujatha, Bittari Swarupa and Bittari Santhi Babu, Kindra, Anantagiri (V), Rajavommangi (M), East GodavariDistrict,dt.22.01.2020.
3. Govt. Memo No.1326620/CV.2/2020, dated: 09.03.2020.
4. From the Collector & District Magistrate, East Godavari, Lr.Ref.No.C5/M/784/2010, dated 22.03.2021.
5. Govt. Memo.No.1326620/CV.2/2020, dated.05.08.2021, 08.09.2021 & 10.11.2021

***

ORDER:

In the Proceedings 1st read above, the Collector & District Magistrate, East Godavari, Kakinada has issued orders not considering caste of Smt/Kum Bittari Sujatha, D/o Malliraju, Bittari Swarupa, D/o B.Chittibabu and Bittari Santhi Babu, S/o B. Ganapathi Rao, Kindra, Anantagiri (V), Rajavommangi (M), East Godavari District as ST 'Valmiki'.

2. Smt/Kum Bittari Sujatha, D/o. Malliraju, Bittari Swarupa, D/o. B.Chittibabu and Bittari Santhi Babu, S/o. B. Ganapathi Rao, Kindra, Anantagiri (V), Rajavommangi (M), East Godavari District, Kakinada have filed an Appeal Petition before the Government vide reference 2nd read above, against the Proceedings of the Collector & District Magistrate, East Godavari District, Kakinada duly submitting grounds in support of their claim of ST 'Valmiki' Community and prayed to suspend the proceedings of the Collector & District Magistrate, East Godavari District, Kakinada, dt.06.11.2019 and direct the Collector & District Magistrate to declare the appellants as Valmiki Scheduled Tribe Community and issue caste certificates to them. After examining the said Appeal Petition, Government while admitting the same, have called for the Para-wise remarks on the grounds filed by the Appellant along with connected records from the Collector & District Magistrate, East Godavari District in the reference 3rd read above.

3. In the letter 4th read above, the Collector & District Magistrate, East Godavari District, Kakinada has furnished the para-wise remarks along with connected records on the Appeal Petition filed by Smt/Kum Bittari Sujatha and (2) others.

4. The said Appeal Petition has been posted for hearing on 23.08.2021 and 20.11.2021 before the Hon'ble Appellate Authority duly informing the same to the Appellant and the Counsel for the Appellant in the Memo 5th read above. The appellants and their counsel have attended the hearing on 20.11.2021 and On perusal of the records/ the copies of evidences/ academic record/ grounds filed by the Appellant & the para-wise remarks submitted by the Collector & District Magistrate, East Godavari District along with his proceedings, dt.06.11.2019, the Appellate authority has observed that;

I. The grounds put-forth by the appellant in support of their claim of ST 'Valmiki' community is as follows:-

1. The application for issuance of caste certificate was made in the year 2009 and the same was rejected after 10 years i.e. in the year 2019 after filing of W.P.No.5038 of 2019, Contempt Case vide.C.C.No.794 of 2019 and W.P. 16525 of 2019.
2. The respondents have served notices to the petitioner on 03-10-2019 at about 10.30 AM in the morning to the father of the Appellant No.1 and the said notice was taken back by the Village Revenue Assistant at 11 .30 PM in the night, stating that the MRO has other meeting at Vijayawada and the same will be delayed by 3 or 4 days and requested to return the notice stating that a fresh notice will be issued duly intimating the next date. The appellants as abundant caution attended the same but no Grama Sabha was conducted on 04-10-2019 as no officers attended the same.

[Contd..on P.2]

3. The Chairman DLSC has issued a notice 14-10-2019 to attend the enquiry on 17-10-2019. On the said date the appellant approached the DLSC and have stated that an enquiry was already done by the MRO and a report was also furnished by him and that the Honble High Court has directed the respondent to pass appropriate order in terms of the said report and complete the proceedings before him, basing on the other material available on record, vide order dated 10.04.2019 in W.P. No.5038 of 2019.
4. The Chairman DLSC has failed to consider the request and have passed the impugned order without granting any time or opportunity to the Appellants for submission of further documents, if not satisfied by the report submitted by the Mandal Revenue Officer dated 29.05.2015. The said act of the respondents is in violation of principle & of natural justice.
5. The respondent No.1 has failed to consider the report vide No.Rc.C/48/2014 dated 29-05-2015 of the Tahsiidar, Rajavommangi where under he has conducted a Grama Sabha on 26-11-2014 and has held that Bittari Laxmaiah i.e. the Grand Father migrated from Vathangi Village to Ananthagiri Village of Raja vommangi Mandal in the year 1950 and that he and his family members are Valmiki (Schedule Tribe Community) and that death extract of Bittari Mallesu i.e Appellants great grandfather belongs to Dutharthi Village of Addateegala Mandal reveals the death on 07-05-1940 and the extract was also certified by the Tahsildar which reveals that the Appellants caste status as Valmiki (Schedule Tribe) and further stated that the birth and death registers of Vatangi Village pertaining to 1956 prior, Bittari family was recorded as Christian, finally recommended for issuance of a caste certificates to the appellants as Valmiki (ST).
6. The Sub-Collector, Rampachodavaram has submitted his findings to the Collector, East Godavari District vide ref.No.G/239/2010, dated 03-06-2016 stating that Sri Bittari Laxmaiah great grandfather of appellants got married to Barangi Chellayamma belonging to SC Mala community. But there is no evidence to the said statement that they belong to SC Mala and the said statement is made without any basis and the same cannot be agreed to. The said contention that few members of the family have performed rituals according to the Christian custom and that they have embraced Christianity is without any basis and the same is false and baseless.
7. Though the petitioner furnish the settlement patta and caste certificate of Chintala, Bonku, Setti, Chevala etc. Who are the marital relations with Bittari family a contra finding has been given by the respondents and the said documents are not considered.
8. The Chavala surname i.e. the W/o Chavala Laxmaiah does not belong to Schedule Caste Mala Community and the Hon'ble Court has held that Chavalas surname people belong to Schedule Tribe Community.
9. The respondents failed to appreciate the death extract of Bittari Mallesu, which was examined by the MRO and enquiry report was also submitted. There is no reason or bonafide explanation given by the 1st respondent with regard to the question for non-consideration of the said death extract.
10. The respondents failed to consider that the Sub-Collector, Rampachodavaram has not granted any opportunity for filing further documentary evidence in support of their claim and no notice has been issued to the Appellants in that regard. In the absence of any notice from the said Sub-Collector, it is evident that the said statement is false, baseless and in violation of principles of natural justice. The enquiry if any conducted by the Sub-Collector without notice to the appellants, the said enquiry is illegal and void. The Sub-Collector in his findings dated 03.06.2016 has issued proceedings contrary to the enquiry report dated 29.05.2015 submitted by the Tahsildar, Rajavommangi and no reasons are assigned to deviate from the said report.
11. The District Collector has erred in holding that reasonable opportunity is given to the Appellants to produce further evidence as the notice given on 03-07-2018 to attend the enquiry on 04-08-2018 but no opportunity was given to place further documents and no reason is given to reject the enquiry report dated 29-05-2015 of the Tahsitdar, Rajavommangi.

II. The Collector & District Magistrate, East Godavari District has furnished the following remarks on the above grounds as follows:

1. Consequent to issue of endorsement dt.9-9-2009, to 1. Bittari Sujatha, 2. Bittari Swarupa 3. Bittari Santhibabu of Ananthagiri of Rajavommangi Mandal by the then Tahsildar, Rajavommangi, E.G. District during the year, 2009, rejecting the caste claim as Valmiki (S.T), the certificate seekers filed an application before the District Collector, East Godavari, dt.15.09.2010 and the same was referred to the District Level Scrutiny Committee. On receipt of the joint application by the petitioners filed before the District Level Scrutiny Committee, E.G. District, a notice as required under rules contained in G.O.Ms.No.58, Social Welfare (J) Dept., 12th May, 1997 (Act 16/ 1993) were issued to

[Contd..on P.3]

the 3 applicants namely 1. Bittari Sujatha, 2. Bittari Swarupa 3. Bittari Santhi Babu of Ananthagiri of Rajavommangi Mandal, calling them to appear on 1-2-2014, 21-7-2014 & 6-1-2015 for filing documentary evidences etc., in Support of their caste status as Valmiki (S.T).

Subsequently, the Collector & District Magistrate, E.G. Dist. in their REVCSECOVC(MIS)1/2019-SA-05-CLOEG. dt.30-7-2019 sent all the pending DLSC files to the Project Officer, ITDA, Rampachodavaram, E.G. Dist. in terms of G.O.Ms.No.57, General Administration (Special-A) Dept., dt.1-3-2014, Govt. of A.P.(as per clause 21 in the said G.O.) for taking further course of action.

The DLSC finally felt that in absence of the required documentary evidences and other relevant material mentioned supra, the DLSC cannot consider the caste status of the applicants /petitioners as Valmiki (ST) and as such their caste status claim is rejected vide proceedings dated 06.11.2019 of the District Collector, East Godavari.

The petitioners cannot insist the DLSC to dispose the case basing on a single document which does not contain all details and valid recorded evidences, The appeal Proceedings have been decided by the DLSC purely based on valid recorded evidences and made its recommendations. No Gramasabha was conducted on 04.10.2019 as alleged by the petitioners.

2. While the matter is Pending before the DLSC, E.G. Dist., the above mentioned applicants have filed W.P.No.5038/2019 on the file of Honble High Court of A.P. against the State (1. The Prl. Secy. to Govt., T.W. Department 2. The Commissioner, Tribal Welfare 3. The District Collector, East Godavari. 4. The Chairman and Joint Collector, East Godavari. 5. The Revenue Divisional Officer, Rampachodavaram and 6. The Tahsildar, Rajavommangi) seeking declare the action of the respondents in not issuing the Valmiki (ST) caste Certificates inspite of enquiry report vide Ref.C/48/2014, dt. 29-5-2014 of the Tahsildar, Rajavommangi is illegal, Contrary to law and against the provisions of Act 16/1993 the Rules made there under and also in violation of Articles 14, 16 and 21 of the Constitution of India and consequently direct the respondents to issue Valmiki (ST) caste certificates to the petitioners.

The Honble High Court of A.P. upon heard the W.P passed orders dt.10th April, 2019 directing the District Collector, East. Godavari to complete the proceedings considering the enquiry report submitted by respondent No.6 i.e., Tahsildar, Rajavommangi and the material available on record and to pass orders in accordance with law within four(4) weeks from the date of receipt of a copy of the order and disposed the W.P. accordingly. Hence, Gram Sabha was not conducted in this case on the date and enquiry concluded on the material record available on hand.

3. On receipt of report from the Tahsildar, Rajavominangi vide Rc.C.48/2011, dt: 29.05.2015, the then Sub Collector, Rampachodavararn has conducted further enquiry and submitted report rejecting the recommendation made by the Tahsildar, vide Rc.G.239/2010, dated 3.06.2016 of the Sub Collector, Rampachodavaram. Thereafter also the appellants were given opportunity in the year 2018 also. The DLSC observed the report of Tahsildar, Rajavommangi in her report C/48/2014, dt.29-5-2014 has clearly reported that Bittari family were recorded as Christian in Birth & Death records of Vathangi village of Rajavommangi mandal prior to 1956, available in the of line of the Tahsildar, Rajavommangi.
4. The Sub Collector, Rampachodavaram after conducting detailed enquiry in the village and gone through the recorded evidences has submitted report vide Rc.G.239/2010, dated 3.06.2015 for rejection of the Caste claims of the appellants.
5. The old Birth and Death extracts in Rajavommangi Mandal are clearly reveals that the surnames Chintala, Bondu, Setti, Chevala are recorded as "Mala".
6. The Sub Collector, Rampachodavaram after conducting detailed enquiry and gone through the recorded evidences has submitted report vide Rc.G.239/2010, dated 3.06.2016 stating that Chavala surnamed people (the wife of Chaala Lakshmaya's Caste) is Mala-SC according to the records available.
7. The DLSC after examination observed that the death extract of Bittari Mallesu reveals his death on 7.5.1940 in Ducherthi village of Addateegala Mandal and it reveals that the blood relatives, grand fathers were not the residents of Ananthagiri village.
8. The Sub Collector, Ramapachodavaram after conducting detailed enquiry in the village and gone through the recorded evidence has submitted report vide Rc.G.239/20l0, dated 3.06.2016 for rejection of the Caste claims of the appellants.
9. Alter receipt of report dated 3.6.2016 from the Sub Collector Rampachodavaram, opportunities are provided to the appellants hence denied the appellants contention.

[Contd..on P.4]

III. During the course of hearing of the case, the Appellate Authority has observed/opined that;

1. During the course of arguments, the appellants submitted arguments that the great grandfathers of the appellants belongs to ST Valmiki Community and there are persons with Bittari surname belongs to ST Valmiki as such it can be concluded that the appellants also belongs to ST Valmiki.

2. On verification of the arguments and the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record, it is noticed that the lower authorities failed to observe the findings of the concerned above and after examination of the appeal petition and the circumstances stated that in exercise the powers conformed under the act and the rules, the appeal is hereby allowed filed by the appellants by upholding the appellants are Schedule Tribe (Valmiki) claim and they are entitled community certificates as ST Valmiki.

5. Government, after careful examination of the appeal petition and in exercise of the powers conferred under Section 7(2) of A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act 16 of 1993), and rules made there under, hereby allow the appeal petition filed by Smt/Kum Bittari Sujatha, D/o Malliraju, Bittari Swarupa, D/o B.Chittibabu and Bittari Santhi Babu, S/o B. Ganapathi Rao, Kindra, Anantagiri (V), Rajavommangi (M), East Godavari District, Kakinada and they are entitled for community certificates as ST Valmiki and the proceedings vide Ref. C5/42/2019, dt.06.11.2019 of the Collector & District Magistrate, East Godavari District, Kakinada are hereby set-aside.

6. The Collector & District Magistrate, East Godavari District, Kakinada is directed to take necessary consequential action in the matter, accordingly.

7. The records (Ref.C5/M/784/2010) containing pages (Vol.I. NF: 1 to 3 & CF: 1 to 577 and Vol.II. NF:1 to 25 & CF-579 to 1468) received from the Collector & District Magistrate, East Godavari through in the reference 4th read above, are returned herewith in original to the Collector & District Magistrate, East Godavari and he is requested to acknowledge the receipt of the same, immediately.

KANTILAL DANDE
SECRETARY TO GOVERNMENT

To
The Collector & District Magistrate, East Godavari at Kakinada.(w.e)
(With original records) (BY RPAD)

Smt/ Kum Bittari Sujatha, D/o. B. Malliraju,
H.No.1-4, Kindra, Anantagiri (V),
Rajavommangi (M), East Godavari District.

Smt/ Kum Bittari Swaroopa, D/o. B. Chittibabu,
H.No.1-9, Kindra, Anantagiri (V),
Rajavommangi (M), East Godavari District.

Sri Bittari Santhi Babu, S/o. B. Ganapathi Rao,
H.No.1-9, Kindra, Anantagiri (V),
Rajavommangi (M), East Godavari District.

Copy to:
The OSD to Hon'ble Deputy CM(TW).
The PS to Secretary(TW).
Sf/Sc (E-1116869)

// FORWARDED:: BY ORDER //

SECTION OFFICER